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REMARKS

Claims 1-17, 21-26, 30-32 and 36 -44 are in this application. Claims 18-20, 27-29 and 33-35 have been cancelled. Claims 1-11 are allowed.

Terminal disclaimers in respect of US patents 6,514,986 and 6,664,267 are attached.

Claims 12-38 are not anticipated by WO00/68229.

In order to find anticipation each and every [claim] limitation must be found either expressly or inherently in a single prior art reference". In *Celeritas Techs. Ltd. V. Rockwell Int'l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998). In other words, a printed publication must include all "limitations" In *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226,1236 (Fed. Cir. 1989). Merely identifying within the prior art all of the various parts of the claimed subject matter is not anticipation. Instead "there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention" In *Scripps Clinic & Research Found. V. Genentech Inc.*, 927 F.2d 1565,1576 (Fed. Cir. 1991).

The cited reference does not disclose specific compositions made using the compounds of examples 7 and 8. The cited reference does not disclose the use of compounds of examples 7 and 8 to treat infections or diseases caused by bacteria.

Submitted herewith is the declaration of Dr. Mahesh Patel in which he explains that it is incorrect that a crystalline form loses its identity once dissolved in a solution. This is further evidence that the claimed invention is patentable over the cited reference.

Claim 39 defines a solid composition comprising a compound of claim 1 and claims 40-44 define the use of that composition. As the examiner has indicated that the compound of claim 1 is allowable, a composition containing that compound especially a solid composition is new and non obvious and allowable; and the use of a novel and nonobvious composition to treat an infection or disease is novel, nonobvious and allowable.

Therefore, since each element of claims 12-17, 21-26, 30-32 and 36 -38 are not found

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in the cited reference the claims are not anticipated. Therefore, it is respectfully requested that the rejection be withdrawn.

It is submitted that this application is in condition for allowance and favorable consideration is respectfully requested

Respectfully submitted,

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